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Joint Inspection Unit

Report of the Joint Inspection Unit on management audit review of outsourcing in the United Nations and United Nations funds and programmes

Note by the Secretary-General

Addendum

The Secretary-General has the honour to transmit, for the consideration of the members of the General Assembly, his comments on the report of the Joint Inspection Unit entitled "Management audit review of outsourcing in the United Nations and United Nations funds and programmes" (JIU/REP/2002/7) (see A/58/92).

Summary

The comments of the Secretary-General on the report of the Joint Inspection Unit (JIU) on the management audit review of outsourcing in the United Nations and United Nations funds and programmes is being submitted to the General Assembly pursuant to article 11, section 4 (d) of the JIU statute. The JIU report itself was mandated under Assembly resolution 55/232 of 23 December 2000 on outsourcing practices. It reviews the extent to which the outsourcing activities of the United Nations and its funds and programmes, in 1999 and 2000, conformed to the policies enunciated in the above resolution.

The comments of the Secretary-General on the JIU report in many respects reflect the views expressed in the recent Secretary-General's reports on procurement reform (A/57/187), outsourcing practices (A/57/185) and the proposed measures to improve the profitability of the commercial activities of the United Nations (A/57/398).

* A/58/50/Rev.1 and Corr.1.

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I. Introduction

1. The report of the Joint Inspection Unit (JIU) on the management audit review of outsourcing in the United Nations and United Nations funds and programmes was prepared in response to General Assembly resolution 55/232 of 23 December 2000, in which the Assembly requested JIU to conduct a management audit review of outsourcing in the United Nations and the United Nations funds and programmes in accordance with existing practice and to report thereon to the Assembly at its fifty-seventh session.

2. This subject had been addressed earlier by JIU in its 1997 report entitled "The challenge of outsourcing for the United Nations system" (JIU/REP/97/5) (see A/52/338) and by the Office of Internal Oversight Services (OIOS) of the United Nations Secretariat in the same year in its report on the review of outsourcing practices at the United Nations (A/51/804). The following year, pursuant to General Assembly resolution 52/226 B of 31 March 1998, the Secretary-General issued a report on outsourcing practices in the United Nations establishing the basic policy and guidelines of the United Nations on outsourcing (A/53/818), taking into account the above-mentioned 1997 report of JIU and the report of OIOS on the review of the implementation of procurement reform (A/52/813, annex), which was endorsed by the Assembly in its resolution 54/256 of 7 April 2000.

3. The objective of the JIU report was to determine if and to what extent outsourced operations conducted in 1999 and 2000 by the United Nations Secretariat and United Nations funds and programmes had been consistent with the policy directives contained in General Assembly resolution 55/232 regarding, in particular, the reasons, goals and criteria for outsourcing. As such, the scope of the report is limited to the United Nations Secretariat and United Nations funds and programmes.

II. General comments

4. The findings and recommendations contained in the report have been generally welcomed, and the effort of JIU in its detailed preparation is appreciated. While the principles expounded by JIU are generally supported, attention is nonetheless being called to the need for flexibility and for giving due consideration to the unique environments in which individual organizations operate. In this regard, the recommendations contained in the report may be seen more as guidelines than as prescriptions for action and, as such, they may be more helpful to Executive Heads who need to consider a range of outsourcing alternatives and the various factors affecting each organization with a view to securing the most cost-effective strategy for their own organization.

5. While the United Nations basic policies and guidelines are extremely useful, Executive Heads take the view that decentralization would enable each organization of the system to better determine for itself what appropriate procedures should be applied, given its own unique operating environment, particular needs, available resources, skill sets and the location(s) of its operations. By the same token, they consider that appropriate control, regulation and oversight mechanisms would be necessary and should be tailor-made to each organization's unique situation. However, these should not be overly strict or so restraining as to effectively limit the

organization's range of choice or negotiations leading to the most satisfactory outsourcing arrangements.

6. The report appears to be focused more on the mechanics of contracting for outsourcing services rather than on the issues concerning the inability to follow stated policy and guidelines on outsourcing, or the issues related to operational weaknesses that are inherent or systemic in current practices in the United Nations and its funds and programmes. Thus, it is felt that the report would have been more useful and instructional if it had examined the factors that actually influenced the implementation of the basic policy and guidelines in the outsourcing experience of the United Nations and its funds and programmes in 1999 and 2000, and more importantly, had derived useful lessons learned from it.

7. With regard to the Unit's findings, it should be noted that a database of contract templates is currently being maintained at the United Nations Secretariat in order to address the concerns expressed by JIU on the question of the differences that exist in the contracts issued by the United Nations and funds and programmes and the specialized agencies. The Office of Legal Affairs of the United Nations Secretariat also reviews any contract containing material changes prior to release to the vendor. Furthermore, the Inter-Agency Procurement Working Group (IAPWG) has recently developed a web site targeted at sharing procurement best practices among the agencies, and the sharing of documentation is a priority of this initiative. The United Nations administration believes that the issue of reinforcement of procurement policies and procedures as highlighted in General Assembly resolution 55/232 governs all aspects of United Nations procurement and not just those considered to be "outsourcing" and that these policies are adequately covered by the existing policies and procedures.

8. It does appear that events over time may have overtaken the usefulness of some of the JIU findings in the report. For instance, in respect of the issue of "outsourcing teams", subsequent deliberations at the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the General Assembly may have made the issue redundant. With the elimination of the distinction between "core and non-core" activities in accordance with ACABQ recommendation, the need for establishing outsourcing teams is no longer useful, as programme managers have received clear guidelines from the criteria unequivocally defined in the JIU report (A/58/92).

9. As long as the particular supplier continues to offer the most efficient and cost-effective service and is selected through a fair, transparent and competitive process conducted at regular intervals, the administration is unable to support the suggestion that the same supplier should not be used for more than 10 years. It is in the interest of the Organization to continue using these suppliers.

III. Comments on recommendations

10. ***Recommendation 1: Working concept of outsourcing for United Nations and its funds and programmes***

The Executive Heads of the organizations concerned should ensure that outsourcing arrangements with commercial suppliers are based on the following distinctive elements:

(a) The managerial processes of the service or activity concerned are owned and controlled by the contractor;

(b) Resulting from (a) above, the associated human resources (personnel performing the outsourced services), even while working on the organizations' premises, fall under the responsibility of, and report to, the vendor and not the host organizations;

(c) Outsourcing, unlike other forms of procurement, is geared mostly to the provision of services to meet the organizations' internal needs or substantive programme requirements; it could also include the supply of goods (for example, computer equipment, photocopying machines or stationery) linked to the outsourced services in question, subject to (d) below;

(d) An outsourcing arrangement typically implies a business relationship with a supplier lasting one year or more as a general rule (para. 17).

11. Many of the issues contained in the above recommendation are already part of existing procedures, especially as the criteria for outsourcing were clearly outlined in the report of the Secretary-General on outsourcing practices (A/55/301) and considered by the General Assembly in its resolution 55/232. Inasmuch as there does not appear to be a significant distinction between the elements of an outsourcing arrangement and those of any other type of contract, the recommendation is clearly relevant to any contractual activity and not just to outsourcing.

12. With regard to recommendation 1 (c), the administration believes that the issue should be examined on a case-by-case basis, as the supply of goods in conjunction with services may be more costly to the Organization than their purchase through regular in-house procurement channels and also it may have a negative effect on cost savings resulting from economies of scale achieved through consolidation of requirements. Some offices may also be encouraged to utilize this avenue in an attempt to "bypass" normal procurement channels.

13. With specific reference to recommendation 1 (d), an outsourcing arrangement should not be so restrictive as to imply that it should be a continuous business relationship with a supplier typically lasting one year or more. Instead, it could also imply an intermittent relationship with a supplier depending on the type of activity.

14. ***Recommendation 2: Common services, national execution of projects, and outsourcing***

(a) Although common services operated within the United Nations system are conceptually a form of outsourcing, the organizations' programme managers responsible for common services and/or outsourcing practices should restrict the practical use of the term "outsourcing" to contractual relations with commercial vendors;

(b) Likewise, while the practice of contracting with governmental and non-governmental institutions in the Member States for the execution of technical cooperation, humanitarian and other projects and programmes would also qualify to some extent as outsourcing, this term should not be used for such operational activities for development, which should continue to be referred to more appropriately as: "national execution", "national capacity-building", "institution-building" and "strengthening" (para. 23).

15. Further clarification is needed in respect of recommendation 2, as it seems to deal only with terminology and does not clearly refer to any preferred course of action to be considered by the organizations of the system in the light of General Assembly resolution 55/232. In view of the many permutations of a contractual relationship, the narrow definition of outsourcing is questioned.

16. *Recommendation 3: Strengthening outsourcing policy guidelines*

The Secretary-General should reinforce existing outsourcing policy guidelines with the following additional measures:

(a) The General Assembly's policy directives on outsourcing practices contained in resolution 55/232, and related policy guidelines on the same subject, should be incorporated in the relevant policy documents, especially procurement manuals and general conditions for contracts for services, including those of the funds and programmes (para. 25);

(b) Services and activities to be outsourced should be made explicit in the programme budget narrative and resources should be approved by the competent policy-making organs for the service or organizational unit concerned (para. 46).

17. The administration does agree that the Procurement Manual should contain guidelines on outsourcing practices and that it should also reference the respective General Assembly policy directives. These will in fact be incorporated into future issues of the Procurement Manual, which are designed as a "working tool". The extent of the inclusion of such general policy directives will not negate any of the "user-friendliness" and thus the usefulness of the Manual.

18. As regards recommendation 3 (b), it should be pointed out that programme budget documents basically describe, among other things, the technical work to be performed by the organization concerned as well as the budgetary, personnel and other resources needed for this purpose, and would not usually include information regarding the mechanics of its delivery or operations. Furthermore, programme budgets are produced as early as two years prior to the actual budget cycle; therefore, it may not always be possible to anticipate the feasibility of outsourcing in view of fast-evolving events in the commercial world. Unless outsourcing had already been demonstrated to be the most cost-effective delivery mechanism, normally a specific decision by the Executive Heads would need to be taken to select this modality among a range of possible operations during appropriate phases of the implementation of the work programme.

19. *Recommendation 4: Standardized due diligence procedures*

The Inter-Agency Procurement Working Group (IAPWG) should aim, inter alia, through shared databases, to standardize and generalize the application of due diligence procedures within the United Nations system, using relevant provisions of the United Nations Children's Fund (UNICEF) Supply Manual as a model (para. 51).

20. The relevance of this recommendation vis-à-vis the objective of the JIU report is not clear. The issue of standardization is quite distinct from the issue of outsourcing. It is not clear how standardization would help ensure the conformity of outsourcing practices with the policy enunciated under General Assembly resolution 55/232.

21. In the Secretariat, the application of due diligence for prospective vendors is conducted as part of the vendor registration process with strict eligibility criteria (similar to that of UNICEF). Further checks are made based on specific requirements of a particular purchasing requirement to ensure that prospective vendors are able to meet contractual obligations in the event of a contract award.

22. The Procurement Division does not currently have the resources to re-evaluate suppliers every two years; however, the suppliers are re-evaluated from time to time and at any time if the circumstances so warrant. The Procurement Division currently has nearly 6,000 approved suppliers on its roster and receives approximately 500 requests monthly from new suppliers wishing to register. However, it is acknowledged that common procedures or standards for due diligence would be useful and the Procurement Division is willing to raise this issue with the IAPWG membership.

23. ***Recommendation 5: Value for money and performance measures***

(a) Programme managers should understand the "lowest acceptable bid" rule in the United Nations Procurement Manual to cover also the "best value for money" principle, and the World Food Programme (WFP) might wish to share with other organizations in IAPWG the relevant provisions of its Non-Food Procurement Manual on the "best value" award for the competitive Request for Proposals (RFP) process (para. 54);

(b) IAPWG should seek agreement on standard contract provisions emphasizing cost-effectiveness and efficiency in outsourced operations, depending on the nature of the service or activity being outsourced, especially for high-value contracts, and the said provisions should specify as clearly as possible the various measures against which the contractor's performance could be measured (para. 58).

24. Recommendation 5 is found generally acceptable by the United Nations and the various funds and programmes. However, it should be noted that the "best value for money" concept was incorporated in the new Financial Regulations and Rules of the United Nations (ST/SGB/2003/7) which were promulgated by the Secretary-General following the General Assembly's approval of the revised Financial Regulations at its fifty-seventh session. Accordingly, relevant training will be afforded to programme managers, requisitioners and procurement staff to familiarize them with this concept.

25. The administration also wishes to express reservation over the inclusion of the general conditions for service contracts, as most of the criteria for the measurement of cost-effectiveness and efficiency are dependent on the type of services being requested, and thus it could not be adequately covered in a single standard format.

26. ***Recommendation 6: Enhanced safety and security measures***

(a) The safety and security factor should be among the risks to be assessed during the pre-contract phase and periodically thereafter, particularly with respect to outsourcing arrangements involving the regular presence on United Nations premises of a significant number of the supplier's personnel;

(b) The Secretary-General and Executive Heads of the funds and programmes should institute as general policy the requirement that contractors provide to the Security and Safety Services all relevant identity details of their

personnel already assigned, or to be assigned to outsourced duties within the organizations, subject to national legislation at each duty station pertaining to individual privacy and data protection;

(c) The Security and Safety Services should perform more rigorous and regular checks on contracted personnel and any additional costs should be appropriately reflected in the overall costs of the outsourced operation, or charged to the contractors in proportion to the size of their personnel on United Nations premises (para. 62).

27. The need to verify the credibility and integrity of contractual personnel carrying out various tasks and functions within the United Nations Organization has been a matter for research and one under discussion in Security and Safety Services for some time now. In this connection, we recommend that any contractors whose staff are required to be in the United Nations premises on a regular basis be responsible for conducting individual background checks at their cost. The background check is to be conducted by a reputable licensed investigative agency. A listing of local licensed agencies can be provided by Security and Safety Services upon request. The issuance of the United Nations grounds pass will be subject to clearance by the Security and Safety Services based on the review of the report from the agency.

28. ***Recommendation 7: Tax-exemption status of the United Nations***

The Secretary-General should review with competent national authorities all cases in which the levying of taxes on the organizations for their outsourced services might be in contravention of the relevant provisions of the Convention on the Privileges and Immunities of the United Nations, and report the outcome to the General Assembly (para. 68).

29. Recommendation 7 is generally acceptable.

30. ***Recommendation 8: Monitoring, evaluation, and certification system specific to outsourced contracts***

IAPWG should consider disseminating among its members the evolving experience of the United Nations Procurement Division in the use of its new formats for monitoring, evaluating and certifying supplier performance under outsourced contracts (para. 73).

31. The administration is in agreement with this recommendation and will keep the membership of IAPWG apprised.

32. ***Recommendation 9: Training programme in contract monitoring, management and evaluation***

The Secretary-General and Executive Heads of the funds and programmes should budget adequate resources for training programme managers at all duty stations in contract oversight, giving priority to those organizational units more significantly exposed to the outsourcing option by the nature of their activities (para. 77).

33. Recommendation 9 is generally acceptable.